

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services amends Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

This amendment reflects the action of the Iowa General Assembly directing the Department to provide coverage under the Healthy and Well Kids in Iowa (HAWK-I) Program to all eligible children for whom federal funding is available. The Children’s Health Insurance Program Reauthorization Act of 2009 allows states the option to extend coverage funded through the federal Children’s Health Insurance Program (HAWK-I in Iowa) to all children who are lawful permanent residents of the United States.

Previously, children who entered the United States on or after August 22, 1996, were barred from participating in any federal means-tested program for five years from their date of entry. This amendment provides that children in lawful permanent resident status may receive HAWK-I coverage if they are otherwise eligible, regardless of their date of entry to the United States. This amendment does not extend coverage to children who do not have documentation of their legal entry to the United States.

This amendment does not provide for waivers in specified situations since it benefits the children affected by expanding eligibility. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The HAWK-I Board adopted this amendment on May 19, 2009.

The Department finds that notice and public participation are impracticable in that the legislative directive to add coverage is effective on July 1, 2009, and there is not sufficient time to allow for public participation before that date. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department finds that this amendment confers a benefit by extending health coverage to children who were previously ineligible. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 7882B** to allow for public comment.

This amendment is intended to implement Iowa Code chapter 514I as amended by 2009 Iowa Acts, Senate File 389, section 14, and Public Law 111-3.

This amendment becomes effective on July 1, 2009.

The following amendment is adopted.

Amend subrule 86.2(7) as follows:

86.2(7) *Citizenship and alien status.* The child shall be a citizen or lawfully admitted alien. The criteria established under ~~8 U.S.C. Section 1612(a)(2)(A) and the Balanced Budget Act of 1997, subsection 5302,~~ 441—subrule 75.11(2) shall be followed when determining whether a lawfully admitted alien child is eligible to participate in the HAWK-I program. The citizenship or alien status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

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